

2024:PHHC:051709

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

207 **CRM-M-4893-2020**
Date of decision: 18.04.2024

Puneet Kumar Patel

....Petitioner

V/s

State of Haryana & Another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Vivek Kumar, Advocate, for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr.K.K. Garg, Advocate for the complainant/Respondent No.2.

SUMEET GOEL, J. (ORAL)

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.88 dated 30.08.2019, registered for offences punishable under Sections 406, 498-A and 34 of the Indian Penal Code, 1860, at Police Station Women, District Rohtak.

2. On 04.02.2020, the following order was passed:-

“Learned counsel for the petitioner would contend that there is possibility of an amicable settlement between the parties.

On oral request of learned counsel for the petitioner, the complainant-Suniti, d/o Satyavir Singh, r/o Village Jasia, District Rohtak is impleaded as respondent No.2. Registry to do the needful.

Notice of motion for 28.02.2020, on which date the parties will appear before the Mediation and Conciliation Centre of this Court for amicable resolution.

A sum of Rs.22,000/- as litigation expenses will be paid to the complainant wife on the next date of hearing before the Mediation Centre.

In the meantime, the arrest of the petitioner is stayed to explore the possibility of compromise between the parties.”

Thereafter, on 06.02.2023, the following order was passed:

“On 04.02.2020, the following order was passed:-

“Learned counsel for the petitioner would contend that there is possibility of an amicable settlement between the parties.

On oral request of learned counsel for the petitioner, the complainant-Suniti, d/o Satyavir Singh, r/o Village Jasia, District Rohtak is impleaded as respondent No.2. Registry to do the needful.

Notice of motion for 28.02.2020, on which date the parties will appear before the Mediation and Conciliation Centre of this Court for amicable resolution.

A sum of Rs.22,000/- as litigation expenses will be paid to the complainant wife on the next date of hearing before the Mediation Centre.

In the meantime, the arrest of the petitioner is stayed to explore the possibility of compromise between the parties.”

As per report received from Mediation and Conciliation Center of this court, the mediation proceedings could not be fructified.

*Meantime, keeping in mind law enunciated by Hon'ble Supreme Court in **Thana Singh v. Central Bureau of Narcotics, (2013)***

***2 SCC 590; Arnab Manoranjan Goswami v. State of Maharashtra, (2021) 2 SCC 427; Satender Kumar Antil V. CBI, (2022) 10 SCC 51; Siddharam Satlingappa Mhetre v. State of Maharashtra & Ors., 2010 SCC OnLine SC 1375; Shri Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 Supreme Court Cases 565; Arnesh Kumar v. State of Bihar (2014) 8 SCC 273,** at the first instance, the petitioner is directed to appear before Investigating Officer on **10.02.2023** and thereafter as directed by the Investigating Officer. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of Investigating/Arresting Officer. The petitioner shall cooperate the investigating officer.*

If the Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the learned Illaqa Magistrate who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 03.03.2023.”

3. Learned State counsel, on instructions from ASI Ashok Kumar, has stated that pursuant to the orders dated 04.02.2020 and 06.02.2023, the petitioner has joined investigation and is no longer required for custodial interrogation. However, learned State counsel as also the learned counsel for the complainant have submitted that only partial recovery of dowry articles has been effected and remaining dowry articles are yet to be recovered.

4. Learned counsel for the petitioner has submitted that no dowry articles/*Istri-dhan* are in possession of the petitioner and, in fact, the entire dowry articles/*Istri-dhan* is with the aggrieved-wife.

5. I have heard the learned counsel for the rival parties and have perused the paper book.

6. It will be apposite to refer to a judgment dated 12.02.2024 passed by this Court in CRM-M-60647-2023 titled as **“Varun Sharma Vs. State of Punjab and another”**, relevant whereof reads as under:

“11. As a sequel to the above said discussion, the following principle of law emerge :-

(I) Non-recovery of dowry articles/Istri-dhan cannot ordinarily be a ground, by itself, for declining a plea for grant of anticipatory bail to the husband or his relatives.

(II) The conduct of an accused, is indeed, a relevant factor for consideration of a plea for grant of anticipatory bail on behalf of such accused. Such conduct would also include the cooperation,

in accordance with law, extended by such accused for recovery of dowry articles/Istri-dhan. Whether or not such cooperation was extended by the accused would be ascertainable from the facts and circumstances of a given case.

(III) In exceptional cases, if the peculiar and/or accentuating facts/circumstances of the case so warrant, a Court would be well within its discretion to pass a direction to the petitioner- accused to deposit in Court or remit to the complainant-wife an appropriate amount towards the Istri-dhan/dowry articles. Needless to state herein that it is neither possible nor desirable to enumerate a set of guidelines in this regard & a Court would have to exercise its judicial discretion in this regard in the facts and circumstances of a given case."

7. Non-recovery of dowry articles/*Istri-dhan* in entirety thereof cannot, by itself, be a cause for rejection of the present plea for anticipatory bail by the petitioner especially when the State does not require custodial interrogation of petitioner on any other count except for effecting recovery of remaining dowry articles/*Istri-dhan*. The aspect, as to what all are the dowry articles/*Istri-dhan* in question in the present case & whether the entire dowry articles have been recovered or not, shall be essentially gone into during the course of trial. No accentuating circumstances are decipherable, from the factual matrix of the present case, so as to direct the petitioner to deposit any amount towards the alleged non-recovery of complete dowry articles. No such misconduct by the petitioner has been pointed out which may dissuade this Court from confirming the interim anticipatory bail to the petitioner.

8. In view of above, the petition is allowed and interim orders dated 04.02.2020 and 06.02.2023 passed by this Court are made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

9. This order should not be treated as “blanket” order. It will not be interpreted as granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
10. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.
11. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.
12. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

April 18, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No